



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 238-00

14 September 2000

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) Case Summary  
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Marine Corps Reserve filed an application with this Board requesting that his record be corrected to show that he transferred to the Retired Reserve vice being discharged on 1 December 1992.

2. The Board, consisting of Mr. Pfeiffer, Mr. Zsalman and Mr. Beckett, reviewed Petitioner's allegations of error and injustice on 12 September 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although it appears that Petitioner's application was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner was issued a Notification of Eligibility for Retired Pay at Age 60 on 12 February 1990. On 1 January 1991 he was promoted to MSGT (E-8). Subsequently, on 17 May 1991 he was transferred to the Individual Ready Reserve (IRR). At the end of his anniversary year on 8 May 1991, he was credited with 88 retirement points and a qualifying year for reserve retirement. The record shows that he had completed 22 years of qualifying service for reserve retirement. He was honorably discharged at the expiration of his enlistment on 1 December 1992.

d. Attached to enclosure (1) is an advisory opinion from

Headquarters Marine Corps which recommends that Petitioner be transferred to the Retired Reserve vice being discharged on 1 December 1992. However, the advisory opinion also notes that regulations require the completion of two qualifying years after promotion in order to retire in the higher grade. Since Petitioner only completed one qualifying year, the opinion recommends that he be transferred to the Retired Reserve in the grade of GYSGT (E-7) vice MSGT.

e. Petitioner states in his rebuttal to the advisory opinion that he lost his pay billet in 1991 due to the reduction in force following Operation Dessert Storm, and he was financially unable to travel out of the area to obtain a new billet. He further states that he was completely unaware of the requirement for two years of qualifying service after promotion.

#### CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. Petitioner was in good standing in the Marine Corps Reserve and would have been retired if he had requested it. Therefore, the Board agrees with the recommendation contained in the advisory opinion that he should be transferred to the Retired Reserve on 30 November 1992 vice being discharged on 1 December 1992.

Concerning the issue of his grade on retirement, the Board notes that there were reductions in pay billets in the Marine Corps Reserve following Operation Dessert Storm. In addition, it is clear that Petitioner should have been advised to request transfer to the Retired Reserve in 1991 instead of transfer to the IRR. If he had requested retirement, he would have been informed of the two year qualifying service retirement. Given the circumstances, the Board concludes that the two years of qualifying service requirement should be waived, and Petitioner should be transferred to the Retired Reserve in the grade of MSGT.

The Board further concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand that he transferred to the Retired Reserve in the grade of MSGT.

#### RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he transferred to the Retired Reserve on 30 November 1992 in the grade of MSGT vice being discharged on 1 December 1992.

b. That this Report of Proceedings be filed in Petitioner's naval record.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN  
Recorder



ALAN E. GOLDSMITH  
Acting Recorder

5. The foregoing report of the Board is submitted for your review and action.



W. DEAN PFEIFFER

Reviewed and approved:

 10-12-00

Joseph G. Lynch  
Assistant General Counsel  
(Manpower & Reserve Affairs)